
HOUSE BILL 1637

State of Washington

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By Representatives Edmonds, Skinner, O'Brien, McMorris, Conway, Kenney, Campbell, Kagi, Pflug, Kirby, Pennington, Cody, Ruderman, Schoesler, Lovick, Jackley, Schual-Berke, Anderson, Keiser, Schindler, Romero, Casada, Rockefeller, Miloscia, Morell, Mulliken, Santos, Van Luven and Hurst

Read first time 01/31/2001. Referred to Committee on Health Care.

1 AN ACT Relating to enhancing the wages and benefits of long-term
2 care paraprofessional workers providing care to the elderly and
3 disabled; amending RCW 70.47.020, 70.47.060, and 28B.15.558; adding new
4 sections to chapter 74.39A RCW; adding a new section to chapter 43.20A
5 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that long-term care
8 providers in the state of Washington are reporting unprecedented labor
9 vacancies, particularly for those paraprofessionals who provide direct
10 hands-on care to some of the most medically vulnerable citizens of our
11 state.

12 It is the intent of this act to increase the stability of long-term
13 care paraprofessional employment by supporting enhanced wages and
14 benefits for those long-term care paraprofessional workers who provide
15 direct hands-on care for state-funded clients in nursing homes,
16 boarding homes, adult family homes, community residential settings for
17 the developmentally disabled or mentally ill, or clients' own homes.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A RCW
2 to read as follows:

3 As used in sections 3 and 4 of this act:

4 (1) "Long-term care paraprofessional worker" means:

5 (a) A nonlicensed worker providing direct hands-on care to a
6 medicaid client in a nursing home under chapter 18.51 RCW, boarding
7 home under chapter 18.20 RCW, adult family home under chapter 70.128
8 RCW, or developmental disability residential program under chapter
9 71.12 RCW; or

10 (b) A nonlicensed worker providing direct hands-on care to a
11 functionally disabled person in the person's own home through medicaid
12 personal care as described in RCW 74.09.520, community options program
13 entry system waiver services as described in RCW 74.39A.030, or chore
14 services as described in RCW 74.39A.110 as an individual provider or
15 employee of a home care agency under chapter 70.127 RCW.

16 (2) "Long-term care para professional worker" does not include
17 janitorial staff, food service staff, or any other nondirect care staff
18 working in a nursing home, group home, or boarding home facility, or an
19 owner, operator, or manager of a nursing home, group home, boarding
20 home, or adult family home.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.39A RCW
22 to read as follows:

23 (1) The department of social and health services shall establish a
24 wage enhancement program to enhance the wages of long-term care
25 paraprofessional workers. Facilities, organizations, and agencies that
26 employ or contract with long-term care paraprofessional workers may
27 voluntarily participate in the program. Under the program, the
28 department of social and health services shall provide participating
29 facilities, organizations, and agencies with funds to enhance the wages
30 of long-term care paraprofessional workers based on the proportion of
31 worker hours that may be reasonably apportioned to the care of medicaid
32 clients compared to the total number of hours of care for all clients
33 of the facility or home. Wage enhancement funds shall be available for
34 both current workers and additional long-term care paraprofessional
35 workers. Participating facilities, organizations, and agencies shall
36 provide worker and medicaid client data as determined necessary by the
37 department of social and health services. The department shall develop
38 standards for determining how the wage enhancement funds are to be

1 distributed to participating facilities, organizations, and agencies,
2 and reporting requirements needed to determine how wage enhancement
3 funds provided under this act shall be distributed to each long-term
4 care paraprofessional worker. Facilities, organizations, and agencies
5 participating in the wage enhancement program shall report to the
6 department retrospectively on how the funds were distributed. All
7 funds provided to a participating facility, organization, or agency
8 must be used only to directly enhance the wages of long-term care
9 paraprofessional workers. Participating facilities, organizations, and
10 agencies are prohibited from arbitrarily reducing the wages of any
11 long-term care paraprofessional worker on or after July 1, 2001,
12 through July 2, 2002. Any funds received under this act that are not
13 expended for the purposes of this act must be returned to the
14 department.

15 (a) On July 1, 2001, participating facilities, organizations, and
16 agencies shall increase by one dollar per hour, plus an amount equal to
17 mandatory federal and state payroll taxes, the wages paid to each long-
18 term care paraprofessional worker employed or contracted with by the
19 facility, organization, or agency.

20 (b) On July 1, 2002, participating facilities, organizations, and
21 agencies shall increase the wages paid to all long-term care
22 paraprofessional workers by an average amount of one dollar per hour,
23 plus an amount equal to mandatory federal and state payroll taxes.
24 Participating facilities, organizations, and agencies shall determine
25 the amount of the wage enhancement for each eligible long-term care
26 paraprofessional worker in accordance with wage increase criteria
27 guidelines adopted by each participating facility, organization, or
28 agency. The wage increase criteria guidelines must include
29 consideration of tenure, shift, and technical performance of duties,
30 unless otherwise established by contract or bargaining agreement and
31 consistent with existing state and federal law.

32 (2) The department shall determine the wage increase amount for
33 persons working in the individual provider program. The department
34 shall distribute the funding for the July 1, 2002, wage increase so
35 that each participating employer receives an amount equal to the cost
36 of providing a wage increase of one dollar per hour to each long-term
37 care paraprofessional worker, plus an amount equal to mandatory federal
38 and state payroll taxes.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW
2 to read as follows:

3 The department of social and health services shall distribute to
4 all long-term care paraprofessional workers as defined in section 2 of
5 this act information regarding the federal earned income tax credit
6 program. The department's efforts must include outreach and technical
7 assistance designed to allow all long-term care paraprofessional
8 workers who are qualified to receive assistance through the earned
9 income tax credit program.

10 **Sec. 5.** RCW 70.47.020 and 2000 c 79 s 43 are each amended to read
11 as follows:

12 As used in this chapter:

13 (1) "Washington basic health plan" or "plan" means the system of
14 enrollment and payment for basic health care services, administered by
15 the plan administrator through participating managed health care
16 systems, created by this chapter.

17 (2) "Administrator" means the Washington basic health plan
18 administrator, who also holds the position of administrator of the
19 Washington state health care authority.

20 (3) "Managed health care system" means: (a) Any health care
21 organization, including health care providers, insurers, health care
22 service contractors, health maintenance organizations, or any
23 combination thereof, that provides directly or by contract basic health
24 care services, as defined by the administrator and rendered by duly
25 licensed providers, to a defined patient population enrolled in the
26 plan and in the managed health care system; or (b) a self-funded or
27 self-insured method of providing insurance coverage to subsidized
28 enrollees provided under RCW 41.05.140 and subject to the limitations
29 under RCW 70.47.100(7).

30 (4)(a) "Subsidized enrollee" means an individual, or an individual
31 plus the individual's spouse or dependent children: (~~(a)~~) (i) Who is
32 not eligible for medicare; (~~(b)~~) (ii) who is not confined or residing
33 in a government-operated institution, unless he or she meets
34 eligibility criteria adopted by the administrator; (~~(c)~~) (iii) who
35 resides in an area of the state served by a managed health care system
36 participating in the plan; (~~(d)~~) (iv) whose gross family income at
37 the time of enrollment does not exceed two hundred percent of the
38 federal poverty level as adjusted for family size and determined

1 annually by the federal department of health and human services; and
2 ((+e)) (v) who chooses to obtain basic health care coverage from a
3 particular managed health care system in return for periodic payments
4 to the plan. To the extent that state funds are specifically
5 appropriated for this purpose, with a corresponding federal match,
6 "subsidized enrollee" also means an individual, or an individual's
7 spouse or dependent children, who meets the requirements in (a)(i)
8 through ((+e)) (iii) and ((+e)) (v) of this subsection and whose
9 gross family income at the time of enrollment is more than two hundred
10 percent, but less than two hundred fifty-one percent, of the federal
11 poverty level as adjusted for family size and determined annually by
12 the federal department of health and human services.

13 (b) "Subsidized enrollee" also means a long-term care
14 paraprofessional worker as defined in section 2 of this act.

15 (5) "Nonsubsidized enrollee" means an individual, or an individual
16 plus the individual's spouse or dependent children: (a) Who is not
17 eligible for medicare; (b) who is not confined or residing in a
18 government-operated institution, unless he or she meets eligibility
19 criteria adopted by the administrator; (c) who resides in an area of
20 the state served by a managed health care system participating in the
21 plan; (d) who chooses to obtain basic health care coverage from a
22 particular managed health care system; and (e) who pays or on whose
23 behalf is paid the full costs for participation in the plan, without
24 any subsidy from the plan.

25 (6) "Subsidy" means the difference between the amount of periodic
26 payment the administrator makes to a managed health care system on
27 behalf of a subsidized enrollee plus the administrative cost to the
28 plan of providing the plan to that subsidized enrollee, and the amount
29 determined to be the subsidized enrollee's responsibility under RCW
30 70.47.060(2).

31 (7) "Premium" means a periodic payment, based upon gross family
32 income which an individual, their employer or another financial sponsor
33 makes to the plan as consideration for enrollment in the plan as a
34 subsidized enrollee or a nonsubsidized enrollee.

35 (8) "Rate" means the amount, negotiated by the administrator with
36 and paid to a participating managed health care system, that is based
37 upon the enrollment of subsidized and nonsubsidized enrollees in the
38 plan and in that system.

1 **Sec. 6.** RCW 70.47.060 and 2000 c 79 s 34 are each amended to read
2 as follows:

3 The administrator has the following powers and duties:

4 (1) To design and from time to time revise a schedule of covered
5 basic health care services, including physician services, inpatient and
6 outpatient hospital services, prescription drugs and medications, and
7 other services that may be necessary for basic health care. In
8 addition, the administrator may, to the extent that funds are
9 available, offer as basic health plan services chemical dependency
10 services, mental health services and organ transplant services;
11 however, no one service or any combination of these three services
12 shall increase the actuarial value of the basic health plan benefits by
13 more than five percent excluding inflation, as determined by the office
14 of financial management. All subsidized and nonsubsidized enrollees in
15 any participating managed health care system under the Washington basic
16 health plan shall be entitled to receive covered basic health care
17 services in return for premium payments to the plan. The schedule of
18 services shall emphasize proven preventive and primary health care and
19 shall include all services necessary for prenatal, postnatal, and well-
20 child care. However, with respect to coverage for subsidized enrollees
21 who are eligible to receive prenatal and postnatal services through the
22 medical assistance program under chapter 74.09 RCW, the administrator
23 shall not contract for such services except to the extent that such
24 services are necessary over not more than a one-month period in order
25 to maintain continuity of care after diagnosis of pregnancy by the
26 managed care provider. The schedule of services shall also include a
27 separate schedule of basic health care services for children, eighteen
28 years of age and younger, for those subsidized or nonsubsidized
29 enrollees who choose to secure basic coverage through the plan only for
30 their dependent children. In designing and revising the schedule of
31 services, the administrator shall consider the guidelines for assessing
32 health services under the mandated benefits act of 1984, RCW 48.47.030,
33 and such other factors as the administrator deems appropriate.

34 (2)(a) To design and implement a structure of periodic premiums due
35 the administrator from subsidized enrollees that is based upon gross
36 family income, giving appropriate consideration to family size and the
37 ages of all family members. The enrollment of children shall not
38 require the enrollment of their parent or parents who are eligible for
39 the plan. The structure of periodic premiums shall be applied to

1 subsidized enrollees entering the plan as individuals pursuant to
2 subsection (9) of this section and to the share of the cost of the plan
3 due from subsidized enrollees entering the plan as employees pursuant
4 to subsection (10) of this section.

5 (b) To the extent funds are specifically appropriated for this
6 purpose, to enroll in the basic health plan long-term care
7 paraprofessional workers as defined in section 2 of this act who are
8 not otherwise enrolled. Premiums due from long-term care
9 paraprofessional workers shall be set at ten dollars per covered worker
10 per month.

11 (c) To determine the periodic premiums due the administrator from
12 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
13 shall be in an amount equal to the cost charged by the managed health
14 care system provider to the state for the plan plus the administrative
15 cost of providing the plan to those enrollees and the premium tax under
16 RCW 48.14.0201.

17 ~~((+e))~~ (d) An employer or other financial sponsor may, with the
18 prior approval of the administrator, pay the premium, rate, or any
19 other amount on behalf of a subsidized or nonsubsidized enrollee, by
20 arrangement with the enrollee and through a mechanism acceptable to the
21 administrator.

22 (3) To design and implement a structure of enrollee cost-sharing
23 due a managed health care system from subsidized and nonsubsidized
24 enrollees. The structure shall discourage inappropriate enrollee
25 utilization of health care services, and may utilize copayments,
26 deductibles, and other cost-sharing mechanisms, but shall not be so
27 costly to enrollees as to constitute a barrier to appropriate
28 utilization of necessary health care services.

29 (4) To limit enrollment of persons who qualify for subsidies so as
30 to prevent an overexpenditure of appropriations for such purposes.
31 Whenever the administrator finds that there is danger of such an
32 overexpenditure, the administrator shall close enrollment until the
33 administrator finds the danger no longer exists.

34 (5) To limit the payment of subsidies to subsidized enrollees, as
35 defined in RCW 70.47.020. The level of subsidy provided to persons who
36 qualify may be based on the lowest cost plans, as defined by the
37 administrator.

38 (6) To adopt a schedule for the orderly development of the delivery
39 of services and availability of the plan to residents of the state,

1 subject to the limitations contained in RCW 70.47.080 or any act
2 appropriating funds for the plan.

3 (7) To solicit and accept applications from managed health care
4 systems, as defined in this chapter, for inclusion as eligible basic
5 health care providers under the plan for either subsidized enrollees,
6 or nonsubsidized enrollees, or both. The administrator shall endeavor
7 to assure that covered basic health care services are available to any
8 enrollee of the plan from among a selection of two or more
9 participating managed health care systems. In adopting any rules or
10 procedures applicable to managed health care systems and in its
11 dealings with such systems, the administrator shall consider and make
12 suitable allowance for the need for health care services and the
13 differences in local availability of health care resources, along with
14 other resources, within and among the several areas of the state.
15 Contracts with participating managed health care systems shall ensure
16 that basic health plan enrollees who become eligible for medical
17 assistance may, at their option, continue to receive services from
18 their existing providers within the managed health care system if such
19 providers have entered into provider agreements with the department of
20 social and health services.

21 (8) To receive periodic premiums from or on behalf of subsidized
22 and nonsubsidized enrollees, deposit them in the basic health plan
23 operating account, keep records of enrollee status, and authorize
24 periodic payments to managed health care systems on the basis of the
25 number of enrollees participating in the respective managed health care
26 systems.

27 (9) To accept applications from individuals residing in areas
28 served by the plan, on behalf of themselves and their spouses and
29 dependent children, for enrollment in the Washington basic health plan
30 as subsidized or nonsubsidized enrollees, to establish appropriate
31 minimum-enrollment periods for enrollees as may be necessary, and to
32 determine, upon application and on a reasonable schedule defined by the
33 authority, or at the request of any enrollee, eligibility due to
34 current gross family income for sliding scale premiums. Funds received
35 by a family as part of participation in the adoption support program
36 authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall
37 not be counted toward a family's current gross family income for the
38 purposes of this chapter. When an enrollee fails to report income or
39 income changes accurately, the administrator shall have the authority

1 either to bill the enrollee for the amounts overpaid by the state or to
2 impose civil penalties of up to two hundred percent of the amount of
3 subsidy overpaid due to the enrollee incorrectly reporting income. The
4 administrator shall adopt rules to define the appropriate application
5 of these sanctions and the processes to implement the sanctions
6 provided in this subsection, within available resources. No subsidy
7 may be paid with respect to any enrollee whose current gross family
8 income exceeds twice the federal poverty level or, subject to RCW
9 70.47.110, who is a recipient of medical assistance or medical care
10 services under chapter 74.09 RCW. If a number of enrollees drop their
11 enrollment for no apparent good cause, the administrator may establish
12 appropriate rules or requirements that are applicable to such
13 individuals before they will be allowed to reenroll in the plan.

14 (10) To accept applications from business owners on behalf of
15 themselves and their employees, spouses, and dependent children, as
16 subsidized or nonsubsidized enrollees, who reside in an area served by
17 the plan. The administrator may require all or the substantial
18 majority of the eligible employees of such businesses to enroll in the
19 plan and establish those procedures necessary to facilitate the orderly
20 enrollment of groups in the plan and into a managed health care system.
21 The administrator may require that a business owner pay at least an
22 amount equal to what the employee pays after the state pays its portion
23 of the subsidized premium cost of the plan on behalf of each employee
24 enrolled in the plan. Enrollment is limited to those not eligible for
25 medicare who wish to enroll in the plan and choose to obtain the basic
26 health care coverage and services from a managed care system
27 participating in the plan. The administrator shall adjust the amount
28 determined to be due on behalf of or from all such enrollees whenever
29 the amount negotiated by the administrator with the participating
30 managed health care system or systems is modified or the administrative
31 cost of providing the plan to such enrollees changes.

32 (11) To determine the rate to be paid to each participating managed
33 health care system in return for the provision of covered basic health
34 care services to enrollees in the system. Although the schedule of
35 covered basic health care services will be the same or actuarially
36 equivalent for similar enrollees, the rates negotiated with
37 participating managed health care systems may vary among the systems.
38 In negotiating rates with participating systems, the administrator
39 shall consider the characteristics of the populations served by the

1 respective systems, economic circumstances of the local area, the need
2 to conserve the resources of the basic health plan trust account, and
3 other factors the administrator finds relevant.

4 (12) To monitor the provision of covered services to enrollees by
5 participating managed health care systems in order to assure enrollee
6 access to good quality basic health care, to require periodic data
7 reports concerning the utilization of health care services rendered to
8 enrollees in order to provide adequate information for evaluation, and
9 to inspect the books and records of participating managed health care
10 systems to assure compliance with the purposes of this chapter. In
11 requiring reports from participating managed health care systems,
12 including data on services rendered enrollees, the administrator shall
13 endeavor to minimize costs, both to the managed health care systems and
14 to the plan. The administrator shall coordinate any such reporting
15 requirements with other state agencies, such as the insurance
16 commissioner and the department of health, to minimize duplication of
17 effort.

18 (13) To evaluate the effects this chapter has on private employer-
19 based health care coverage and to take appropriate measures consistent
20 with state and federal statutes that will discourage the reduction of
21 such coverage in the state.

22 (14) To develop a program of proven preventive health measures and
23 to integrate it into the plan wherever possible and consistent with
24 this chapter.

25 (15) To provide, consistent with available funding, assistance for
26 rural residents, underserved populations, and persons of color.

27 (16) In consultation with appropriate state and local government
28 agencies, to establish criteria defining eligibility for persons
29 confined or residing in government-operated institutions.

30 (17) To administer the premium discounts provided under RCW
31 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington
32 state health insurance pool.

33 (18) In consultation with the department of social and health
34 services and to the extent funds are specifically appropriated for this
35 purpose, to provide subsidized coverage in the basic health plan to
36 long-term care paraprofessional workers as defined in section 2 of this
37 act.

1 **Sec. 7.** RCW 28B.15.558 and 1997 c 211 s 1 are each amended to read
2 as follows:

3 (1) The governing boards of the state universities, the regional
4 universities, The Evergreen State College, and the community colleges
5 may waive all or a portion of the tuition and services and activities
6 fees for state employees as defined under subsection (2) of this
7 section and members of the Washington national guard. The enrollment
8 of these persons is pursuant to the following conditions:

9 (a) Such persons shall register for and be enrolled in courses on
10 a space available basis and no new course sections shall be created as
11 a result of the registration;

12 (b) Enrollment information on persons registered pursuant to this
13 section shall be maintained separately from other enrollment
14 information and shall not be included in official enrollment reports,
15 nor shall such persons be considered in any enrollment statistics that
16 would affect budgetary determinations; and

17 (c) Persons registering on a space available basis shall be charged
18 a registration fee of not less than five dollars.

19 (2) For the purposes of this section, "state employees" means
20 persons employed half-time or more in one or more of the following
21 employee classifications:

22 (a) Permanent employees in classified service under chapter 41.06
23 RCW;

24 (b) Permanent employees governed by chapter 41.56 RCW pursuant to
25 the exercise of the option under RCW 41.56.201;

26 (c) Permanent classified employees and exempt paraprofessional
27 employees of technical colleges; ((and))

28 (d) Faculty, counselors, librarians, and exempt professional and
29 administrative employees at institutions of higher education as defined
30 in RCW 28B.10.016; and

31 (e) Long-term care paraprofessional workers as defined in section
32 2 of this act.

33 (3) In awarding waivers, an institution of higher education may
34 award waivers to eligible persons employed by the institution before
35 considering waivers for eligible persons who are not employed by the
36 institution.

37 (4) If an institution of higher education exercises the authority
38 granted under this section, it shall include all eligible state

1 employees and members of the Washington national guard in the pool of
2 persons eligible to participate in the program.

3 (5) In establishing eligibility to receive waivers, institutions of
4 higher education may not discriminate between full-time employees and
5 employees who are employed half-time or more.

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